

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BERNADETTE M. BIBBER,

Plaintiff,

v.

NATIONAL BOARD OF OSTEOPATHIC  
MEDICAL EXAMINER, INC.

Defendant.

Case No. 15-4987

**JOINT STIPULATION**

Plaintiff, Bernadette M. Bibber (Plaintiff), and defendant, National Board of Osteopathic Medical Examiners, Inc. (NBOME), by their respective counsel, stipulate and agree to the following:

**Plaintiff's Application for Extended Testing Time**  
(February 17 – April 2, 2015)

1. A true copy of Plaintiff's request for 50% extended time to take the COMLEX-USA Level 1 examination and all the documentation she provided by her was received by NBOME on or about February 17, 2015, and is attached hereto as Exhibit 1.
2. On or about March 14, 2015, the report and recommendation of Joseph Bernier, PhD, was provide to TAC, and a true copy is attached hereto as Exhibit 23.
3. On March 25, 2015, the Testing Accommodation Committee (TAC) of the NBOME met by telephone conference and did not approve Plaintiff's request for 50% extended time to take the COMLEX-USA Level 1 examination. A true copy of the redacted minutes of that TAC meeting is attached hereto as Exhibit 27, and a true copy of TAC's decision letter to Plaintiff dated April 2, 2015 is attached hereto as Exhibit 2.

Plaintiff's Requests for Reconsideration of Her Application  
(May 6, 2015 – June 29, 2015)

4. On or about May 6, 2015, Plaintiff, by her attorney, Ms. Freeman submitted a letter requesting reconsideration of the NBOME's denial of her request for 50% extended time to take the COMLEX-USA Level 1 examination. A true copy of the letter from Ms. Freeman and included documents is attached hereto as Exhibit 3. A true copy of the response of NBOME's attorney, Mr. Steele, dated May 26, 2015, is attached hereto as Exhibit 4.

5. On or about May 24, 2015, a true copy of the second report and recommendation of Joseph Bernier, PhD, was provided to TAC, and is attached hereto as Exhibit 24.

6. On May 27, 2015, the Testing Accommodation Committee (TAC) of the NBOME met by telephone conference and did not approve Plaintiff's request for 50% extended time to take the COMLEX-USA Level 1 examination. A true copy of the redacted minutes of that TAC meeting is attached hereto as Exhibit 28.

7. On or about June 8, 2015, Plaintiff submitted an email to the NBOME with additional documents again requesting the NBOME to reconsider its denial of her request for 50% extended time to take the COMLEX-USA Level 1 examination. A true copy of Plaintiff's email and all included documents is attached hereto as Exhibit 5.

8. On or about June 12, 2015, the report and recommendation of Benjamin Lovett, PhD, was provided to TAC, and a true copy is attached hereto as Exhibit 31.

9. On June 17, 2015, the Testing Accommodation Committee of the NBOME met by telephone conference and again did not approve Plaintiff's request for 50% extended time to take the COMLEX-USA Level 1 examination. A true copy of the

redacted minutes of that TAC meeting is attached hereto as Exhibit 29, and a true copy of the decision letter to Plaintiff, dated June 29, 2015, is attached hereto as Exhibit 6.

Litigation  
(August 27, 2015 – January 27, 2016)

10. On or about August 27, 2015, Plaintiff's attorney, Mr. Weiner, sent a letter to NBOME's attorney, Mr. Steele, with a draft complaint and additional documents. A true copy of that letter and draft complaint is attached hereto as Exhibit 33 and a true copy of the response of Mr. Steele's response is attached hereto as Exhibit 34.

11. Plaintiff's complaint was filed September 4, 2015.

12. Attached hereto as Exhibits 7, 8, 9, 10, 11, 12 and 38 are true copies of documents provided by Plaintiff's attorney, Mr. Weiner, to NBOME's attorney, Mr. Steele, on or after August 27, 2015.

13. On or about December 22, 2015, Plaintiff produced to NBOME documents from the College Board for the SAT examinations, from ETS for the GRE examinations, and American Association of Medical Colleges for the MCAT, and a true copy of those documents are attached hereto as Exhibits 13, 14 and 15.

14. On or about January 15, 2016, Joseph Bernier, PhD, provided to TAC his third testing accommodation review of Plaintiff's request, and a true copy is attached hereto as Exhibit 25. On or about January 18, 2016, the supplemental report of Benjamin Lovett, PhD, was provided to TAC, and a true copy is attached hereto as Exhibit 32.

15. On January 27, 2016 the Testing Accommodation Committee of the NBOME met by telephone conference and again did not approve Plaintiff's request for 50% extended time to take the COMLEX-USA Level 1 examination. A true copy of the redacted minutes of that TAC meeting is attached hereto as Exhibit 30.

Additional Documentation and Depositions  
(February 25, 2016 – March 18, 2016)

16. On or about February 25, 2016, Plaintiff's medical school, Rowan School of Osteopathic Medicine, produced additional documents pursuant to subpoena issued on behalf of the NBOME, including Rowan University Unofficial Transcript of COMAT scores, Plaintiff's Application for Admission to UMDNJ medical school (now Rowan College of Osteopathic Medical Examiners), and Plaintiff's Request for Disability Service and Accommodation, and a true copy of those documents produced by Plaintiff's medical school are attached hereto as Exhibits 16, 17 and 18.

17. On February 27, 2016, NBOME took the deposition of Plaintiff.

18. On March 16, 2016, NBOME took the deposition of Dr. Bernier.

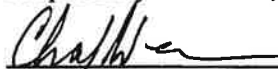
19. On or about March 18, 2016, Plaintiff produced to NBOME a letter from Colby College, a true copy of which is attached hereto as Exhibit 35, and Plaintiff's score reports for the COMSAE examination taken May 21, 2015 and December 31, 2015, true copies of which COMSAE score reports are attached hereto as Exhibits 36 and 37.

Authentic Duplicates

20. Exhibits 1-20, 22-59 attached hereto are true duplicates of the originals and are authentic, but otherwise the parties reserve all objections.

Date: April 4, 2016.

Respectfully submitted,



Charles Weiner, Esq.

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*Counsel for Plaintiff, Bernadette Bibber*

A handwritten signature in blue ink, appearing to read 'Sydney L. Steele', with a long horizontal line extending to the right.

Sydney L. Steele, *Admitted Pro Hac Vice*  
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*Counsel for Defendant, National Board of  
Osteopathic Medical Examiners, Inc.*

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# CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2016, I electronically filed the foregoing

Joint Stipulation with the Clerk of the Court using the CM/ECF system and have verified

that such filing was sent electronically using the CM/ECF system to the following:

Jeffrey W. McDonnell, Esq  
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By: \_\_\_\_\_ /s/\_\_\_\_\_.  
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